

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities, LLC

Plaintiff,

v.

ADELE ADESS REVOCABLE LIVING
TRUST DTD 10/16/01; THE ADESS
FAMILY TRUST; ADELE ADESS,
individually and in her capacity as Trustee for
the Adele Adess Revocable Living Trust DTD
10/16/01 and as Trustee for The Adess Family
Trust; BILLIE BAREN, in her capacity as
Trustee for The Adess Family Trust; and
NANCY ADESS, in her capacity as Trustee
for The Adess Family Trust,

Defendants.

Adv. Pro. No. 10-04727 (SMB)

**STIPULATION AND ORDER DISMISSING ADVERSARY PROCEEDING WITHOUT
PREJUDICE**

WHEREAS, on December 1, 2010, Irving H. Picard, as trustee (“Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding

(the “Adversary Proceeding”) against Adele Adess Revocable Living Trust DTD 10/16/01; The Adess Family Trust; Adele Adess, individually, in her capacity as Trustee for the Adele Adess Revocable Living Trust DTD 10/16/01 and as Trustee for The Adess Family Trust; Billie Baren, in her capacity as Trustee for The Adess Family Trust; and Nancy Adess, in her capacity as Trustee for The Adess Family Trust (the “Defendants”) in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, Defendants Adele Adess and Nancy Adess submitted to the Trustee hardship applications (the “Hardship Applications”) requesting that the Trustee agree to dismiss them from the Adversary Proceeding. In support of the Hardship Applications, Defendants submitted to the Trustee financial statements and other information, all under penalty of perjury;

WHEREAS, in reliance on the representations made by Defendants in the Hardship Applications and other representations and/or materials submitted by Defendants in support of the Hardship Applications, the Trustee in the exercise of his due and deliberate discretion determined to dismiss Defendant Adele Adess from the Adversary Proceeding;

WHEREAS Defendants have affirmatively represented to the Trustee that during the lifetime of Defendant Adele Adess, none of the transfers referenced in Exhibit B to the Complaint were received by Defendants Nancy Adess or Billie Baren, either as initial transfers from BLMIS or subsequent transfers from any of the Defendants,

WHEREAS Defendants have affirmatively represented to the Trustee that at the time of Defendant Adele’s death on February 7, 2013, neither the Adele Adess Revocable Living Trust DTD 10/16/01 nor The Adess Family Trust was funded; and

WHEREAS the Trustee, on the basis of the foregoing representations, has agreed to dismiss this Adversary Proceeding without prejudice under certain terms as set forth in this Stipulation;

IT IS HEREBY agreed and stipulated between the Trustee and Defendants as follows:

1. Defendants hereby affirm (i) that all representations made by Defendants and all materials provided by Defendants have been submitted by Defendants as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to dismiss the Adversary Proceeding.

2. Defendants hereby agree that (i) to the extent it is subsequently determined that Defendants deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Applications or dismissal of the Adversary Proceeding, (ii) should the Trustee discover that fictitious profits were transferred to Defendants Nancy Adess or Billie Baren, or (iii) should the Trustee discover that either Defendants the Adele Adess Revocable Living Trust DTD 10/16/01 or The Adess Family Trust was funded as of the date of Defendant Adele Adess's death, the Defendants hereby agree (i) that the Trustee shall have the right to reinstitute the Adversary Proceeding against Defendants and/or pursue other remedies available to him and (ii) that Defendants agree that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, Defendants hereby agree to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendants hereby agree that upon approval of this Stipulation and Order by the

Bankruptcy Court, except as set forth in paragraph 2 hereof, Trustee's claims against Defendants are dismissed without prejudice.

4. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

5. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: December 9, 2015

<p>IRVING H. PICARD, TRUSTEE FOR THE SIPA LIQUIDATION OF BERNARD L. MADOFF INVESTMENT SECURITIES LLC</p> <p>By: <u>/s/ Nicholas J. Cremona</u> David J. Sheehan Marc E. Hirschfield Nicholas J. Cremona BAKER & HOSTETLER LLP 45 Rockefeller Plaza New York, New York Telephone: (212) 589-4200 Fax: (212) 589-4201</p> <p><i>Attorneys for Irving H. Picard, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and the Estate of Bernard L. Madoff</i></p>	<p><u>/s/ Billie Baren</u> Adele Adess Revocable Living Trust DTD 10/16/01 By: Billie Baren Its: Trustee</p> <p><u>/s/ Nancy Adess</u> Adele Adess Revocable Living Trust DTD 10/16/01 By: Nancy Adess Its: Trustee</p> <p><u>/s/ Billie Baren</u> The Adess Family Trust By: Billie Baren Its: Trustee</p> <p><u>/s/ Nancy Adess</u> The Adess Family Trust By: Nancy Adess Its: Trustee</p> <p><u>/s/ Nancy Adess</u> Adele Adess, individually and in her capacity as Trustee for the Adele Adess Revocable Living Trust DTD 10/16/01 and as Trustee for The Adess Family Trust By: Nancy Adess Her attorney-in-fact and primary beneficiary</p> <p><u>/s/ Nancy Adess</u> Nancy Adess, in her capacity as Trustee for The Adess Family Trust</p> <p><u>/s/ Billie Baren</u> Billie Baren, in her capacity as Trustee for The Adess Family Trust</p>
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	<p>By: <u>/s/ Jeffrey L. Bernfeld</u> Jeffrey L. Bernfeld BERNFELD, DEMATTEO & BERNFELD, LLP 600 Third Avenue, 15th Floor New York, New York 10016 Telephone: 212.661.1661 Facsimile: 212.557.9610 Email: jeffreybernfeld@bernfeld-dematteo.com</p> <p><i>Attorneys for Defendants Adele Adess Revocable Living Trust DTD 10/16/01; The Adess Family Trust; Adele Adess, individually and in her capacity as Trustee for the Adele Adess Revocable Living Trust DTD 10/16/01 and as Trustee for The Adess Family Trust; Billie Baren, in her capacity as Trustee for The Adess Family Trust; and Nancy Adess, in her capacity as Trustee for The Adess Family Trust</i></p>
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SO ORDERED:

By: /s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

Date: December 9th, 2015